THE HONOURABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 14480 of 2007

Date:14-08-2007

Between:

Smt.P.Vijayasree

.. PETITIONER

AND

The SHO PS Tiruvuru and three others

..

RESPONDENTS

ORDER:

The petitioner seeks a writ of mandamus to declare the inaction of the respondents in not initiating any action on the representations dated 26.05.2007 and 28.06.2007 by removing the illegal encroachments in respect of the Donda Porambok in Sy.Nos.114, 105 and part of 102 of Lakshmipuram village, Tiruvur mandal, Krishna District which is the only egress and ingress to the lands of the petitioner in R.S.Nos.106/1, 106/2, 113/3, 104/2 and 104/3 of Lakshmipuram village, Tiruvur, as illegal and arbitrary.

Heard the learned counsel appearing for the petitioner and the respondents.

It is the case of the petitioner that herself, her husband and her two children are the owners and possessors of agricultural land admeasuring Ac.23.20 cents situated in R.S.Nos.106/1, 106/2, 113/3, 104/2 and 104/3 of Lakshmipuram village, Tiruvur mandal, Krishna District. The said lands are zerayity patta lands and there is no dispute with regard to the right, title and possession of the petitioner.

The entire land is in one block divided by cart track in between R.S.Nos.114 and part of 102. The said survey numbers are classified as Donka Parambok in the revenue records. It is stated that a cart track was also there in Donka Porambok of land for making use of ingress and egress to the petitioner's fields and also to other ryots. It is stated that certain activists belonging to Communist Party have forcibly occupied the government land preventing the petitioner and other agriculturists from doing their agricultural operations and therefore, the petitioner made a representation to remove the illegal encroachments. But, the respondents failed to take any action.

A counter has been filed by the respondents 3 and 4 admitting the

ownership of the petitioner and her family members about an extent of Ac.23.20 cents in the aforesaid survey numbers and also donka poramboke land admeasuring Ac.1.14 cents in R.S.No.102, Ac.1-59 cents in R.S.No.105, and 47 cents in R.S.No.114. It is stated that the aforesaid poramboke land surrounded the property of the petitioner. But, the request of the petitioner to alienate the said land was not considered, as the donka poramboke cannot be alienated.

It is further stated that during the 'Bhooporatam' launched by the CPM & CPI parties in the State, the party leaders along with their followers of Tirvuru mandal have erected red flags to the donka poramboke on 28.06.2007 and tried to encroach the said land. The petitioner also made a representation before the Station House Officer, Tiruvuru for protection of the lands and their lives from communist party leaders. Accordingly, the Tiruvuru police personnel along with revenue officials proceeded to Lakshmipuram village to carry out eviction of the encroached donka poramboke and the surveyor demarcated the donka and separated. It is also admitted that the said donka land is being used for ingress and egress of the agricultural produce of the petitioner as well as adjoining ryots and there is no objection for the free passage and for the transportation of agricultural products. It is stated that one Putta Arjuna was granted 'Eksal lease' for an extent of
Ac.1.59 cents in R.S.No.105 in the year 1979 and subsequently the said land was encroached by the petitioner. It is further stated that the donka poramboke is a government land utilized for public purpose to transport the agricultural produce etc. of all the surrounding ryots and hence the petitioner cannot encroach the government land and if there are any encroachments in the government land, necessary steps will be taken to evict the encroachers by following due process of law.

Though the petitioner made an attempt that he is entitled to purchase the said land, admittedly as the said donka land belongs to the

government, it is not alienable and the petitioner has also no exclusive right, title or possession over the said land and she cannot interfere with the said land. Similarly, neither the activists of the communist party nor any other person can encroach on the said government land. It is admitted in the counter that the petitioner and other ryots for transportation of agricultural products are using the said land.

I am of the opinion that it is the duty of the government to protect the cart track for the benefit of ryots without allowing any encroachments upon the government land.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing the respondents to take appropriate steps to remove the encroachments upon the government land. No costs.

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V.ESWARAIAH, J.

Date:14.08.2007.

Note:

Furnish C.C. within a week.

B/O

ccm